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Paper No.

SENNIGER POWERS  
ONE METROPOLITAN SQUARE  
16TH FLOOR  
ST LOUIS, MO 63102

**COPY MAILED**

JAN 12 2006

**OFFICE OF PETITIONS**

In re Application of	:	
Brian Fitzpatrick, Ellen Cox,	:	
Maddy Sheprow, Peggy Barton,	:	DECISION ACCORDING STATUS
Frank Munsch, Mark Hanes,	:	UNDER 37 CFR 1.47(a)
Jennie Hei and	:	
Ethan Blumenstrauch	:	
Application No. 09/840,648	:	
Filed: April 23, 2001	:	
Atty Docket No. MRZ 8996.1	:	

This is a decision on the "PETITION UNDER RULE 47(a)," filed September 14, 2001. The petition was recently forwarded to the undersigned for consideration.

The petition is **GRANTED**.

The above-identified application was filed on April 23, 2001, without an executed oath or declaration. Accordingly, on June 15, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a period for reply of two months from the mailing date of the Notice, with extensions of time obtainable under § 1.136(a).

On September 14, 2001, rule 47 applicants responded with a declaration executed by joint inventors Fitzpatrick, Cox, Sheprow, Barton, Munsch, Hanes and Hei on behalf of themselves and on behalf of non-signing inventor Blumenstrauch; the late surcharge under § 1.16(e); the fee for extension of time for response within the first month; and the instant petition (and petition fee). Rule 47 applicants maintain that status under 37 CFR 1.47 is proper because despite diligent and repeated

contacts with Mr. Blumenstrauch and his attorney by telephone and by written correspondence, inventor Blumenstrauch has been unavailable, unresponsive and has refused to sign the declaration. In support thereof, rule 47 applicants enclosed a declaration of facts of patent attorney Frank Agovino.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

On petition and by declaration of patent attorney Frank Agovino, and supporting documentary evidence, petitioner has shown that inventor Blumenstrauch has refused to join in the application after having been presented with the application papers.

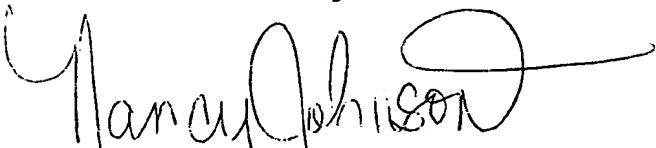
The petition includes a statement of the last known address of inventor Blumenstrauch. The declaration filed September 14, 2001, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application will be examined in Technology Center AU 3622 in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

  
Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions



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Mr. Ethan Blumenstrauch  
317 East 75<sup>th</sup> Street  
New York, NY 10021

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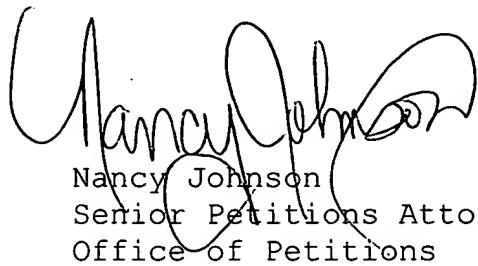
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Dear Mr. Blumenstrauch:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

SENNIGER POWERS  
ONE METROPOLITAN SQUARE  
16TH FLOOR  
ST LOUIS, MO 63102

cc: Sidney Bresnick  
Bresnick & Reff  
110 East 59<sup>th</sup> Street  
Manhattan, NY 10022